

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ALABAMA  
SOUTHERN DIVISION

VINCENT LANHAM AND EMILY )  
LANHAM, )

Plaintiffs, )

v. )

PFIZER, Inc., a Delaware )  
corporation, VALLEY HEALTH )  
SYSTEMS, INC., a federally )  
qualified health center, and )  
JENIFER HADLEY, D.O., )

Defendants. )

CIVIL ACTION NO.  
2:11-CV-00281-IPJ

(Case in other Court, West Virginia  
Southern, 2:10-cv-03157)

**DECLARATION OF  
JAMES C. ANAGNOS**

1. I am an Attorney Advisor in the General Law Division, Office of the General Counsel, Department of Health and Human Services (the "Department"). I am familiar with the official records of administrative tort claims maintained by the Department as well as with the system by which those records are maintained.

2. The Department has a Claims Branch that maintains in a computerized database a record of administrative tort claims filed with the Department, including those filed with respect to federally supported health centers that have been deemed to be eligible for Federal Tort Claims Act malpractice coverage.

3. As a consequence, if a tort had been filed with the department with respect to Valley Health Systems, Inc., its approved delivery sites, or its employees or qualified contractor, a record of that filing would be maintained in the Claims Branch's database.



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4. I caused a search of the Claims Branch's database to be conducted and found no record of an administrative tort claim filed by Vincent Lanham and Emily Lanham, or an authorized representative relating to the Valley Health Systems, Inc., and Dr. Jenifer Hadley.

5. I have also reviewed official agency records and determined that Valley Health Systems, Inc., was deemed eligible for Federal Tort Claims Act malpractice coverage effective June 23, 1996 and that its coverage has continued without interruption since that time. The Secretary of Health and Human Services' authority to deem entities as Public Health Service employee under 42 U.S.C. § 233(g) has been delegated to the Associate Administrator, Bureau of Primary Health Care, Health Resources and Services Administration. A copy of the notification by an Associate Administrator, Bureau of Primary Health Care, Health Resources and Services Administration, Department of Health and Human Services, to Valley Health Systems, Inc., is attached to this declaration as Exhibit 1.

6. Official agency records further indicate that Dr. Jenifer Hadley was an employee of Valley Health Systems, Inc., at all times relevant to the Plaintiffs' claim.

I declare under penalty of perjury that the foregoing is true and correct. 28 U.S.C. § 1746.

Dated at Washington, D.C., this 22<sup>nd</sup> day of April, 2011.

  
JAMES C. ANAGNOS  
Attorney Advisor, Claims and Employment Law Branch  
General Law Division  
Office of the General Counsel  
Department of Health and Human Services



DEPARTMENT OF HEALTH & HUMAN SERVICES  
BUREAU OF PRIMARY HEALTH CARE

Public Health Service

JUN 20 1996

Health Resources and  
Services Administration  
Bethesda MD 20814

Mr. Steven Shattis  
Executive Director  
Valley Health Systems  
401 Tenth Street  
Huntington, West Virginia 25701

Reference: Malpractice Liability Coverage

The Bureau of Primary Health Care (BPHC), in accordance with Section 224(h) of the Public Health Service (PHS) Act, 42 U.S.C. 233(h) as amended by the Federally Supported Health Centers Assistance Act of 1995 (Pub.L. 104-73), deems the above named entity to be an employee of the Federal Government, effective June 23, 1996, for the purposes of Section 224. Section 224(a) provides liability protection under the Federal Tort Claims Act (FTCA) for damage for personal injury, including death, resulting from the performance of medical, surgical, dental, and related functions and is exclusive of any other civil action or proceeding. This "FTCA coverage" is applicable to deemed entities and their including officers, governing board members, employees, and contractors who are physicians or other licensed or certified health care practitioners working full-time (minimum 32.5 hours per week) or part-time providing family practice, general internal medicine, general pediatrics, or obstetrical/gynecological services.

Section 224 further provides that hospital admitting privileges cannot be denied on the basis of having malpractice coverage under the FTCA, if a covered health care professional meets the appropriate professional qualifications, and agrees to abide by the hospital bylaws and the rules, and regulations of the medical staff. Moreover, managed care plans are required to accept FTCA as meeting whatever malpractice insurance coverage requirements such plans may require of contracting providers. Hospitals and managed care plans that fail to comply shall be in jeopardy of losing Medicare and Medicaid reimbursements.

In addition, FTCA coverage is comparable to an "occurrence" policy without a monetary cap. Therefore, any coverage limits that may be mandated by other organizations are met. For example, a \$1.0 million each claim/\$3.0 million aggregate occurrence is met since FTCA would, as appropriate, provide for the payment to a plaintiff of any damages awarded as a result of a judgment or a settlement approved by the Attorney General, sums in excess of this amount.

For further information, please contact CAPT Marty Bree, Regional FTCA Coordinator, HRSA Field Office, Philadelphia, Pennsylvania at (215) 596-6655.

Sincerely yours,

Marilyn H. Gaston, M.D.  
Assistant Surgeon General  
Director

Exhibit-1